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SUMMARY AS TO GENERAL MILITARY RIGHTS

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1. Independent of specific military facilities, installations, or operating activities which constitute physical operating requirements in given areas it is essential that executive agreements (either bilateral or multilateral) provide for certain features affecting implementation of such agreements.
2. In general, the precedents established in having formalized agreements with several countries provide a somewhat standardized basis as to the drafting of such items. Such standardization is desirable and should be followed wherever practicable. However, experience has indicated that there are usually several items, not necessarily the same items, wherein each country may desire to depart from the precise wording as applied in other countries and require particular provisions peculiar to the individual agreement. Further, a great deal of progress has been accomplished within the NATO to reach agreement as to certain common subjects such as jurisdiction of military personnel, etc. These multilateral provisions where mutually agreed upon at NATO level must be adhered to in agreements between countries which have been parties to the drafting of such items at NATO level. Examination is essential in each instance to verify if the country concerned has agreed to particular multilateral items.
3. Listed below are some of the items which should be provided for in the drafting of military rights agreements:

a. A preamble or statement as to the basis or authority from which the new agreement stems, and the purpose of the agreement. This is an extremely important part of the agreement. For example, if there is reference to the NATO in the preamble, the possibility that the rights acquired under the agreement might be limited to use in connection only with the defense of the North Atlantic Area, must be recognized. This is particularly important in those cases where the new agreement is superceding an agreement which may have had some other objective than that contained in the North Atlantic Alliance.

b. Recognition as to the existence of previous agreements for which provision must be made for:

(1) The new agreement to supercede the former agreement, in whole.

(2) The new agreement to supercede the former agreement in part. In this instance specific mention should be made in the new agreement as to which items of the old agreement are either superceded or retained.

(3) The new agreement to in no way supercede the former agreement.

**OSD HAS NO OBJECTION TO DECLASSIFICATION AND**

c. Duration clause. **RELEASE.**

(1) NOTE: Incident to the Icelandic negotiations, the reluctance of the Icelandic Government to enter into an agreement effective for the duration of NATO resulted in establishment of a policy which has been

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ENCLOSURE (1)

confirmed as a standard to be followed in negotiating with other countries. Briefly, it provides for 3 degrees of acceptability as applied to termination of agreements with NATO member nations as follows:

(a) Duration of the North Atlantic Treaty.

(b) Termination only when the North Atlantic Council has determined that a military requirement no longer exists in the area in question.

(c) Unilateral termination on specified notice after review by NATO but not necessarily in accordance with NATO recommendation.

(2) In connection with the above, any bilateral base rights agreement under NATO which is not co-terminous with NATO tends to weaken the basic multilateral agreement and should be avoided if at all possible. Further, although the three degrees of acceptability outlined above were approved by the Armed Forces Policy Council, it was with the understanding that in each instance the approval of the Department of State must be obtained.

d. The right for the United States to use the base or facility under all conditions, without restriction, as for instance if the U. S. became engaged in a war while the other party to the agreement was not similarly at war. There is precedent for this arrangement in the 99 year Leased Bases Agreement between U. S. and Great Britain.

e. Jurisdiction of personnel as applied to:

(1) Members of the Military Forces, (Within and outside of U. S. areas)

(2) Dependents of members of the military forces. (Within and outside of U. S. areas)

(3) U. S. contractor personnel.

(4) Dependents of U. S. contractor personnel.

(5) Members of foreign military forces, within U. S. areas.

(6) Foreign nationals other than foreign military personnel, within U. S. areas.

(7) Others.

f. Exemption from or application of custom duties, imports, charges, income tax or other taxes, as applied to:

(1) Members of military forces.

- (2) Dependents of members of military forces.
- (3) U. S. contractor personnel.
- (4) Dependents of U. S. contractor personnel.
- (5) Other U. S. personnel including U. S. civilian personnel who are not U. S. contractor personnel.
- (6) Material supplies and equipment brought in by U. S. Government.
- (7) Material supplies and equipment brought in by a contractor.
- (8) The sale locally of material, supplies or equipment brought in for government use.
- (9) The sale locally of personal belongings, household effects, motor vehicles, etc., brought in for personal use.
- (10) Goods, stores and food brought in for the use of or consumption by the personnel listed in sub-paragraph (1) through (5).
  - g. The title (U. S. or foreign) to fixed installations constructed by the U. S. and the status of such title on termination of the agreement.
  - h. The title (U. S. or foreign) to removable equipment, installations, etc., brought into the country by the U. S. and the status of such title on termination of the agreement. A corollary to this item is the right to remove movable property at any time.
  - i. Pilotage or compulsory operating fees.
  - j. Use or limitations as to use of U. S. postage.
  - k. The right to make on-site surveys. (With or without foreign representation).
  - l. The right to make topographic (including photographic) and/or hydrographic surveys. (Usually includes a provision to provide the foreign country concerned with copies of all such surveys).
  - m. The right to make technical or engineering surveys. (Usually listed as a separate item from 11 above so as to avoid the necessity of providing the other party with copies of surveys, which may be of a classified nature).
  - n. Delineation of ship or aircraft operational areas, restrictions, and/or procedures to comply with local laws or regulations.
  - o. Right of air transit and technical stop.
  - p. Employment of foreign nationals (or aliens) within U. S. areas; compliance with local wage scales, etc.

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q. Right to operate government (and privately owned) motor vehicles on public roads, etc. Registration, driving permits, share in cost of depreciation of roads, local road tax, etc.

r. Security provisions within U. S. areas, particularly as applied to "sensitive" U. S. installations.

s. General defense of the base or facility from attack as distinguished from routine internal security (policing) of the local area.

t. The right to establish on bases navy exchanges, sales commissaries, messes and social clubs for the exclusive use of United States military forces and authorized civilian personnel and their families to be free of all licenses, fees, sales, excise or other taxes, and free of inspection.

u. The right to establish and maintain United States post offices free from censorship on the bases for the exclusive use of the United States armed forces and civilian personnel who are nationals of the United States and employed in connection with the construction, maintenance, and operation of the bases and the families of such persons.

v. The right to employ and use public utilities, services and transportation and communication facilities as may be necessary in connection with operations under the Agreement.

w. The right, in cooperation with the authorities of the contracting country, to take such steps as may be mutually agreed upon to improve the health and sanitation in areas contiguous to the areas and facilities used by the United States forces.

x. The right to acquire additional areas, sites and locations by supplementary agreement.

y. A clause pertaining to steps to be taken should questions of interpretation arise in the application of the Agreement.

z. The following general information is extracted from a basic paper on the subject of: List of U. S. Requirements for Military Rights Within NATO countries and Their Territories.

(1) Rights Required.

(a) The United States should seek a long-term agreement with each Member Nation of the NATO providing:

1. The right to survey, establish, occupy, operate, improve, expand, develop, protect, maintain, stockpile, and support--with supplies, equipment, and personnel, both military and civilian--such military installations, stations, and facilities, within the home country and territories of the Member Nations having sovereignty, as may be required to permit the

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implementation of NATO plans. Such agreements should encompass access rights in any case where deep-water shipping facilities are not an integral part of the projected base and should specify the basis upon which the costs, including the maintenance costs for roads, railroads, etc., necessary for access, are to be apportioned.

(b) Such agreement should continue in effect until the Council determines that the military operating requirements and facilities provided therein are no longer necessary for the mutual defense of Member Nations contemplated by the North Atlantic Treaty. In any agreement for long-term military rights provision must be made, within the scope of the basic agreement, for expansion and augmentation as necessitated by changing conditions and requirements by negotiations at a service-to-service level, under the coordination of the appropriate commander under the Joint Chiefs of Staff,

(c) In negotiating for ANY agreement, the following rights should be sought from all NATO countries:

1. Interminant rights for air transit, technical stop, and naval visit.
2. Agreements to provide for mapping, charting and on-site surveys (including aerial photography and related activities).
3. The right for storage and stockpiling of supplies and material including ammunition.
4. Reaffirmation of continuation of all existing rights.
5. Right to base appropriate units in the countries concerned as required by the current world situation, and in conformance with NATO plans.